



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 04436-99

28 October 1999

1STSG [REDACTED] USMC
[REDACTED]

Dear First Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 9 July 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board was unable to find the mark in item 15a of the contested fitness report was an average of your other marks. In this regard, they noted you provided no statement from the reporting senior to support your assertion that he told you he had used that method to arrive at the mark in item 15a. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

443699

IN REPLY REFER TO:
1610
MMER/PERB
JUL 9 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF FIRST
SERGEANT [REDACTED] USMC

Ref: (a) 1stSgt. [REDACTED] DD Form 149 of 30 Apr 99
(b) MCO P1610.7D w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 7 July 1999 to consider First Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 951101 to 960815 (CH) was directed. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner alleges that the Reporting Senior utilized the report as a "counseling tool" to reflect professional differences that surfaced during the reporting period. He also believes his distribution in Item 15a was based on the average markings contained in the remainder of Section B and do not reflect his overall value to the Marine Corps. In support of his appeal, the petitioner furnishes five advocacy statements.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. None of the five letters furnished with reference (a) dispute the truth and accuracy of the challenged fitness report. Likewise, none of the authors claim to have had more awareness of the petitioner's duties and responsibilities to the Reporting Senior and Reviewing Officer than did those officers. Succinctly stated, none of those five individuals had the first-hand knowledge of the petitioner's performance; nor were they charged with officially evaluating and recording that performance.

b. The petitioner does not prove the liberty and PFT issues somehow biased the Reporting Senior against him, or that either incident was a basis for Section B grades and Section C comments. We also conclude that the petitioner has failed to substantiate that he was never properly counseled on his performance. In this regard, the Board emphasizes that "counseling" can and does occur in many styles and forums, many of which are not readily apparent to the recipient.

(4) PERB

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
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c. While the petitioner may be dissatisfied and disgruntled with the report, there has been nothing furnished with reference (a) to convince the Board that the evaluation is anything other than a fair, accurate, and objective appraisal.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of First Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps